

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA, §
§
Plaintiff, §
§
v. § CRIMINAL ACTION NO. 4:16-CR-001-
§ ALM-CAN
RICARDO GAMEZ, JR. §
§
Defendant. §

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Now before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on June 2, 2016, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by William Tatum.

On June 29, 2011, Defendant was sentenced by the Honorable United States District Judge Barbara M.G. Lynn of the Northern District of Texas to sixty (60) months followed by a term of supervised release of two (2) years for the offense of Bank Robbery. On May 29, 2015, Ricardo Gamez, Jr., completed his period of imprisonment and began service of the supervision term. On January 11, 2016, jurisdiction of this case was transferred from the Northern District of Texas, Dallas, Division to the Eastern District of Texas, Sherman Division and the case was assigned to the Honorable Judge Amos L. Mazzant, U.S. District Judge for the Eastern District of Texas.

On May 6, 2016, the U.S. Probation Officer executed a Petition for Warrant or Summons for Offender Under Supervision [Dkt. 2 Sealed]. The Petition asserted that Defendant violated two (2) conditions of supervision, as follows: (1) The defendant shall refrain from any unlawful use of a controlled substance; and (2) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician.

The Petition alleges that Defendant committed the following acts: (1) and (2) On September 28, 2015; March 14, and April 12, 2016, the Defendant submitted urine specimens that tested positive for methamphetamine. On November 2, 2015, the Defendant admitted to using cocaine. On all the aforementioned occasions, the Defendant either admitted usage and/or the specimens were confirmed positive by Alere Toxicology Services.

Prior to the Government putting on its case, Defendant entered a plea of true to allegations one (1) and two (2) of the Petition, specifically that Defendant tested positive for methamphetamine and that the Defendant admitted to using cocaine. Having considered the Petition and the plea of true to allegations one (1) and two (2), the Court finds that Defendant did violate his conditions of supervised release.

Defendant waived his right to allocate before the District Judge and his right to object to the report and recommendation of this Court.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant's supervised release be revoked and that he be committed to the custody of the Bureau of Prisons to be imprisoned for a term of six (6) months, with no term of supervised release to follow.

The Court also recommends that Defendant be housed in the Bureau of Prisons North Texas Region, if appropriate.

SIGNED this 2nd day of June, 2016.



Christine A. Nowak
UNITED STATES MAGISTRATE JUDGE